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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,624	10/24/2005	Peter Olney	85934.000052	8423
23387 7590 10/31/2007 Stephen B. Salai, Esq. Harter, Secrest & Emery LLP 1600 Bausch & Lomb Place Rochester, NY 14604-2711			EXAMINER LYJAK, LORI LYNN	
			ART UNIT	PAPER NUMBER
			3612	
			MAIL DATE	DELIVERY MODE
			10/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,624

Applicant(s)

OLNEY ET AL.

Examiner

Lori L. Lyjak

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, "said sealing section and/or said fastening section" (lines 1-2) is not clear. What is meant by "said sealing section and said fastening section" or "said sealing section or said fastening section?"

Regarding claim 6, "said sealing lip positively and/or non-positively" (line 2) is not clear. What is meant by "said sealing lip positively and non-positively" or said sealing lip positively or non-positively?"

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-15, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Uhlmeier 5,950,366.

Regarding claim 1, Uhlmeyer '366 discloses a weatherstrip assembly (34) particularly for sealing a folding hardtop (22) of a motor vehicle, provided with a weatherstrip comprising a sealing section (40) and a fastening section (50), said sealing section comprising a sealing lip made of an elastomerically deformable material for pivoting from a first position into a second position and provided with at least one springy restoring element, wherein said sealing lip comprises a free end section provided with a strip-shaped tensioning element in Figure 1.

Regarding claim 2, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said sealing section is made a thermoplastic elastomer (column 6, lines 20-25). Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production.

Regarding claim 3, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said tensioning element is materially connected to said end section.

Regarding claim 4, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said end section comprises an opening in which said tensioning element is arranged.

Regarding claim 5, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said tensioning element is made of metal or plastics.

Regarding claim 6, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said restoring element is connected to said sealing lip positively and/or non-positively.

Regarding claim 7, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said sealing lip comprises an outer surface facing a first component and an inner surface opposite said outer surface, said restoring element being secured to said inner surface.

Regarding claim 8, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 7, wherein said sealing lip in the region of said inner surface comprises at least one clamping section for securing said restoring element.

Regarding claim 9, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said restoring element is made of plastics or metal, preferably of spring steel.

Regarding claim 10, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 9, wherein said restoring element is coated with a protective layer.

Regarding claim 11, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said restoring element is configured as a strip extending practically the full length of said sealing lip.

Regarding claim 12, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein a plurality of restoring elements is arranged distributed over the length of said sealing lip.

Regarding claim 13, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said restoring element is preferably provided with an articulated bend.

Regarding claim 14, Uhlmeyer '366 discloses the weatherstrip assembly as set forth in claim 1, wherein said sealing section comprises an elastomeric hollow chamber which for forming a trough is arranged opposite said inner surface of said sealing lip.

Regarding claim 15, Uhlmeier '366 discloses the weatherstrip assembly as set forth in claim 14, wherein said hollow chamber is connected to a second sealing lip.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Lyjak whose telephone number is 571-272-6658.

The examiner can normally be reached on Monday-Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lori L. Lyjak/
Primary Examiner
Art Unit 3612

lll
October 22, 2007